

### **REMARKS**

The Examiner's Action dated September 8, 2004 has been received and its contents carefully considered.

In this Amendment, Applicant has cancelled Claims 1, 3, 11, 18, 19 and 20 and has amended Claims 4-5, 8-10, 12-14 and 21 without the addition of any new matter. New Claims 22 and 23 have been added as independent claims without the addition of any new matter. Claims 14, 22 and 23 are the independent claims. Claims 4-5, 8-10 and 12-13 depend upon Claim 22. Claim 6 depends upon Claim 4 and Claim 7 depends upon Claim 6. Claim 21 depends upon Claim 23. Claims 4-10, 12-14, 16-17 and 21-23 remain pending in the application with changes thereto as noted above. For at least the following reasons, it is submitted that this application is in condition for allowance.

This Amendment has been prepared using the requested new format. If there are any irregularities in this format, it would be greatly appreciated if the undersigned would be so advised.

Applicant gratefully acknowledges the Examiner's courtesy in permitting a telephonic conference with the Examiner on October 7, 2004 in which agreement was reached with respect to the Claims.

#### **a. Rejection of Claims 1, 3, 4, 6-10, 12, 14, 16-18 and 21 under 35 U.S.C. § 103(a)**

The Examiner rejected Claims 1, 3, 4, 6-10, 12, 14, 16-18 and 21 under 35 U.S.C. § 103(a), as being unpatentable over Ricks, US Patent No. 4,759,139 in view of Rubin, U.S. Patent No. 4,476,381. The Examiner states Claims 1, 10, 14 and 18 are rejected under 35 U.S.C. § 103(a) because Ricks '139 allegedly discloses a recess containing a label within a surrounding wall for retaining the label (a retainer). The Examiner also states Ricks '139 does

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not disclose a member of the identification device having the claimed structure of an identification device. However, Ricks '139 in combination with Rubin '381, is allegedly obvious over the rejected Claims 1, 3, 4, 6-10, 12, 14, 16-18 and 21. The Examiner also states that Claims 11 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claims 1, 3 and 18 without prejudice or disclaimer thus rendering the rejection of Claims 1, 3 and 18 moot. The combined language of Claims 1, 3 and 11 has been incorporated in new Claim 22 (see below) which fully patentably distinguishes over either Ricks '139 or Rubin '381 or the combination thereof and is not motivated, does not teach or suggest Applicant's unique features and is not obvious. Furthermore, new Claim 22 complies with the Examiner's objection to Claim 11 as being a dependent claim which would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims. Since Claim 6 depends on Claim 4, Claim 7 depends on Claim 6 and Claims 4, 8-10 and 12 depend on new independent Claim 22, the rejection of Claims 4-10 and 12 is now moot. Similarly, the combined language of Claims 18, 19 and 20 has been incorporated in new Claim 23 (see below) which fully patentably distinguishes over either Ricks '139 or Rubin '381 or the combination thereof and complies with the Examiner's objection to Claim 20 as being a dependent claim which would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims. Since Claim 21 depends on new independent Claim 23, the rejection of Claim 21 is now moot.

Applicant has amended Claim 14 by now adding the unique feature: "said retainer enclosing and completely covering said label in said recess", which patentably distinguishes over the combination of Ricks '139 and Rubin

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'381. Further the combination of Ricks '139 and Rubin '381 is not motivated, does not teach or suggest Applicant's unique feature and is not obvious, because in the combination of Ricks '139 and Rubin '381, the retainer does not completely cover the label in the recess and therefore does not operate in the same manner as Applicant's above stated unique feature when taken in combination with all of Applicant's remaining features. In particular, Applicant's unique feature of "the retainer enclosing and completely covering the label in the recess" prevents inadvertent destruction of the label, tampering with the label and subsequent loss of identification details by an infant's actions (which is more likely to happen with an infant) in contrast to the identification articles and methods disclosed by the combination of Ricks '139 and Rubin '381. This amendment is fully supported in the Specification (page 12, line 7). Claims 16 and 17 depend on now unique independent Claim 14 and therefore have all the limitations of Claim 14.

For the foregoing reasons, it is respectfully submitted that the rejections of Claims 4, 6-10, 12, 14, 16-17 and 21 under 35 U.S.C. § 103(a), have been overcome. Withdrawal of the rejections of pending Claims 4, 6-10, 12, 14, 16-17 and 21 on this basis is believed to be in order and is courteously requested.

**b. Rejection of Claim 5 under 35 U.S.C. § 103(a)**

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ricks, US Patent No. 4,759,139 as modified by Rubin, U.S. Patent No. 4,476,381 as applied to Claim 3 and further in view of Melin et al., U.S. Patent 5,279,057.

In response, initially, as stated above, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claim 3 without prejudice or disclaimer. The Examiner's rejection of Claim 5 under 35 U.S.C. § 103(a) is now moot since Claim 5 has been amended to now depend

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on new Claim 22, which complies with the Examiner's objection to Claim 11 as being a dependent claim and would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims (see below).

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in pending Claim 5. Accordingly, it is respectfully requested that the rejection of Claim 5 under 35 U.S.C. § 103(a) be withdrawn.

**c. Rejection of Claims 13 and 19 under 35 U.S.C. § 103(a)**

Claims 13 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ricks, US Patent No. 4,759,139 as modified by Rubin, U.S. Patent No. 4,476,381 and further in view of Cheng, U.S. Patent 6,092,321.

In response, in order to expedite the prosecution of the subject patent application, Applicant has cancelled Claim 19 without prejudice or disclaimer and incorporated all of the features of cancelled Claim 19 into new independent Claim 23 (see below). The rejection of Claim 19 over the cited combination of Ricks '139 as modified by Rubin '381 in view of Cheng, '321 as applied to Claim 19 is therefore moot.

Claim 13 has been amended to depend on new Claim 22 (see below). The Examiner's rejection of Claim 5 under 35 U.S.C. § 103(a) is now moot since Claim 13 has been amended to now depend on new Claim 22, which complies with the Examiner's objection to Claim 11 as being a dependent claim and would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims (see below).

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the

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unique combination now recited in pending Claim 13. Accordingly, it is respectfully requested that the rejections of Claim 13 under 35 U.S.C. § 103(a) be withdrawn.

**d. New Claims 22 and 23**

New Claim 22 has been added as an independent claim incorporating the combined language of cancelled Claims 1, 3 and 11 in compliance with the Examiner's statement that Claim 11 as being a dependent claim would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims. No new matter has been added to Claim 22. New Claim 22 defines: "an identification device for an infant comprises, in combination: an infant article; a label having a side and an opposite side, the label including personal information of the infant; a member of the identification device, the member comprising a pair of ends, each one of the ends of the member of the identification device coupled to a portion of the infant article, the label coupled to a portion of the member of the identification device; a portion of a surface of the member of the identification device having a recess for receiving the label; a retainer coupled to the recess of the member of the identification device enclosing the label in the recess of the member of the identification device; and a portion of the opposite side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising at least a visible list of personal information of the infant selected from the group consisting of an infant's name, at least an infant's address, at least a parent's name, a current history of immunizations, at least a medication, at least an emergency telephone number, at least a photograph, at least a finger print and at least a toe print." The combination of features of new Claim 22 is neither shown, nor described, nor suggested in any of the

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references that have been cited. It is therefore respectfully submitted that new Claim 22 patentably distinguishes over any other relevant art.

Similarly, new Claim 23 has been added as an independent claim incorporating the combined language of cancelled Claims 18, 19 and 20 in compliance with the Examiner's statement that Claim 20 as being a dependent claim would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims. No new matter has been added to Claim 23. New Claim 23 defines: "a method for using an identifier device for an infant comprises the steps of: providing an infant article; providing a label having a side and an opposite side, the label including personal information of the infant; providing a member of the identification device, the member comprising a pair of ends, each one of the ends of the member of the identification device coupled to a portion of the infant article, the label coupled to a portion of the member of the identification device; providing a portion of a surface of the member of the identification device having a recess for receiving the label; coupling a retainer to the recess of the member of the identification device, enclosing the label in the recess of the member of the identification device; providing a portion of the side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising a visible identifier selected from the group consisting of at least a name of an infant, at least a photograph, at least a finger print and at least a toe print; providing a portion of the opposite side of the label received by the recess of the member of the identification device and enclosed by the retainer comprising at least a visible list of personal information of the infant selected from the group consisting of an infant's name, at least an infant's address, at least a parent's name, a current history of immunizations, at least a medication, at least an emergency telephone number, at least a photograph, at least a finger print and at least a toe print; and providing at least a portion of the identification device comprises an identifier selected from the group

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consisting of a programmable semi-conductor chip, a digital data recording device, a radio frequency identification device and a barcode." The combination of features of new Claim 23 are neither shown, nor described, nor suggested in any of the references that have been cited. It is therefore respectfully submitted that new Claim 23 patentably distinguishes over any other relevant art.

Since Applicant previously had three independent claims and sixteen dependent claims of which two independent and four dependent claims have been cancelled, no fees are due for the addition of new independent Claims 22 and 23.

Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 4-10, 12-14, 16-17 and 21-23 and that the application be passed to issue.

Should the Examiner feel that a telephone conference would help to expedite the prosecution of the application, the Examiner is hereby invited to contact the undersigned to arrange for such an interview.

If there are any fees incurred by this Amendment Letter, please notify the undersigned.

Respectfully submitted,



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